

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re United States Patent Application of:)	
)	Docket No.: PU03 0233US1.76
Applicants: Thomas Snyder)	
)	Examiner: Sheila B. Smith
Serial No.: 10/709,182)	
)	Confirmation No.: 3181
Date Filed: April 20, 2004)	
)	Customer No.: 54,494
Title: INFORMATION SERVICE)	
PHONEBOOK UPDATE)	

Mail Stop 16
 Director of the U.S. Patent and Trademark Office
 P.O. Box 1450
 Alexandria, VA 22313-1450

REQUEST FOR REFUND

Sir/Madam:

It has recently come to our attention that the United States Patent and Trademark Office made a withdrawal in the amount of \$1,050.00 from Deposit Account No. 13-4365 in the name of Moore & Van Allen, PLLC regarding Application Serial No. 10/709,182.

A Final Office Action for the present application was issued on May 11, 2009. Applicant filed an early response to the Final Office Action on June 1, 2009, within the two-month deadline. Because no Advisory Action had been issued, applicant called and left messages for the examiner and supervisory examiner several times in October and November 2009 to determine the status of the case, but such calls were never returned. Accordingly, on November 10, 2009, one day before the six-month deadline, applicant filed a Notice of Appeal for the sole purpose of keeping the application alive.

An Advisory Action was not issued until January 13, 2010, well past the six-month date. Applicant made at least four more attempts to reach the examiner by phone before the Advisory Action was issued.

According to MPEP 706.07(f), if the examiner does not mail an advisory action until after the end of the 3-month period, any extension of time fee would be calculated from the mailing date of the advisory action. See the MPEP excerpt below:

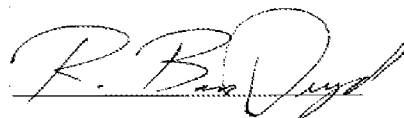
(E) When box 1.b) at the top portion of the Advisory Action form, PTOL-303 is checked, the time for applicant to take further action (including the calculation of extension fees under 37 CFR 1.136(a)) begins to run 3 months from the date of the final rejection, or from the date of the advisory action, whichever is later. Extension fees cannot be prorated for portions of a month. In no event can the statutory period for reply expire later than 6 months from the date of the final rejection. For example, if applicant initially replies within 2 months from the date of mailing of a final rejection and the examiner mails an advisory action before the end of 3 months from the date of mailing of the final rejection, the shortened statutory period will expire at the end of 3 months from the date of mailing of the final rejection. In such case, if a petition for extension of time is granted, the due date for a reply is computed from the date stamped or printed on the Office action with the final rejection. See MPEP § 710.01(a). If the examiner, however, does not mail an advisory action until after the end of the 3-month period, the shortened statutory period will expire on the date the examiner mails the advisory action and any extension of time fee would be calculated from the mailing date of the advisory action.

In this case, since the Advisory Action was not issued until January 13, 2010, any extension of time fees should be calculated from that date. Because the response was filed prior to the Advisory Action date of January 13, 2010, no extension of time fees should be incurred in this case.

In light of the foregoing, the applicant respectfully requests that the Commissioner refund the electronic funds transfer in the amount of \$1,050.00 and credit Deposit Account No. 13-4365 for \$1,050.00, in the name of Moore & Van Allen, PLLC.

If any other issues remain outstanding or if further documentation is required, the Office is respectfully requested to contact the undersigned at (919) 286-8140, so that such issues may be promptly resolved.

Respectfully submitted,



Date: 6/10/10

R. Brian Drozd
Reg. No. 55,130
Moore & Van Allen, PLLC
430 Davis Drive, Suite 500
Morrisville, NC 27560-6832
Telephone: (919) 286-8000
Facsimile: (919) 286-8199